

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

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|------------------------------|---|----------------------|
| TARVISIUM HOLDINGS, LLC, and |) | |
| 45N12E, LLC, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | No. 4:19-CV-0086-DGK |
| |) | |
| DUKAT, LLC, |) | |
| 36LOWER, INC., |) | |
| ELLIOTT KATTAN, and |) | |
| BEN SCHWARTZ, |) | |
| |) | |
| Defendants. |) | |

ORDER DENYING MOTION FOR RECONSIDERATION

This lawsuit arises from Plaintiffs' purchase of an e-Commerce business, Essential Hardware, from Defendant Dukat, LLC. Now before the Court is Defendants' motion for reconsideration (Doc. 80) of the Court's January 10, 2020, Order compelling Defendants to provide certain discovery by January 17 and to pay Plaintiff's reasonable attorneys' fees and costs incurred in bringing two motions to compel.

After carefully reviewing the motion to reconsider, the Court finds it raises no facts or arguments that were not previously considered by the Court, nor does the January 10th Order contain any manifest error. Accordingly, the motion for reconsideration is DENIED.

The Court also observes that it is somewhat unclear from Defendants' briefing how close they are to complying with the January 10th Order. Their filings suggest they are attempting to comply, but are unsure of when they produce all the responsive discovery, suggesting it will be "late this week or early next week." Reply Br. at 3 (Doc. 83).

The January 10th Order mandated Defendants produce the responsive discovery by January 17, 2020. Filing the motion for reconsideration did not toll compliance with this order. The Eighth Circuit has observed that discovery abuse is a “widespread concern in the legal community” and preventing such abuse depends in part on judges being willing to impose them. *Security Nat. Bank of Sioux City, IA v. Day*, 800 F.3d 936, 942 (8th Cir. 2015). Where, as here, the record justifies the imposition of sanctions, sanctions are appropriate to penalize and ““deter those who might be tempted to such conduct in the absence of such a deterrent.”” *Id.* (quoting *Nat'l Hockey League v. Metro. Hockey Club*, 427 U.S. 639, 643 (1976)).

The Court cautions that if Defendants have not fully complied with the January 10th Order by February 14, 2020, the Court may impose additional sanctions on them, up to and including striking their pleadings and entering default judgment against them. The Court may also impose monetary sanctions on defense counsel, both individually and their firm.

IT IS SO ORDERED.

Date: February 7, 2020

/s/ Greg Kays
GREG KAYS, JUDGE
UNITED STATES DISTRICT COURT